

1979 WL 42759 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 15, 1979

*1 Harris A. Marshall, Jr., Esquire
Attorney at Law
P. O. Box 21
Orangeburg, SC 29115

Dear Mr. Marshall:

I am in receipt of your recent letter in which you forwarded a letter to me from Mr. Burgdorf, the city attorney of Springfield. Mr. Burgdorf has inquired if ‘. . . a candidate for mayor can have standing to protest a race for council . . .’

[Section 5-15-130 of the South Carolina Code](#) of Laws, 1976, states in part that
. . . any candidate may contest the result of the election . . . by filing a written notice of such contest . . . and when the decision (of the Municipal Election Commission) invalidates the election the council shall order a new election as to the parties concerned.
(Emphasis added)

This section does not state as clearly as the statutes governing a protest in a general election (Section 7-17-30, et seq.) that a candidate can only protest his own race. However, the cited section does imply that the protest would not cover all the races but only the race that the protest concerns. It is also general law that a protest is governed by statute and that a protest would be of the race in which the protestant was involved. 29 C.J.S. Elections, §§ 261, 262; 26 Am.Jur.2d Elections, § 334. There are exceptions to this general rule. An example would be that it may be possible for one candidate to protest every race by raising the question of voter fraud on the date of the election.

Therefore, although it is general law that a candidate can only protest his own race, there are exceptions to this rule. Additionally, I understand that this protest is now before the court, and it would now be for the court to decide if the mayor has standing to contest the council race.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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